

REMARKS

Applicant proposes amending claims 1, 4, 14, 23-24, and 26 as indicated herein. Applicant also proposes adding new claims 35-37. Support for the new claims may be found at least between line 13 on page 7 and line 25 on page 9 of the Patent Application. No new matter has been added. A request for continued examination has been submitted with the present response. Applicant therefore respectfully requests that the amendments be entered and considered by the Examiner. Pursuant to the proposed amendments, claims 1-37 are pending in the present application.

In the Office Action, claims 1-5, 14, and 25 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Xu, et al (U.S. Patent Publication No. 2003/0172165). Claims 6-13, 15-24, and 32-34 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Xu in view of Trossen, et al (U.S. Patent Publication No. 2003/0157899). The Examiner's rejections are respectfully traversed.

Claims 1 and 26 set forth receiving a multicast control message that indicates hardware and/or software functionality required to be implemented in the mobile unit to enable the mobile unit to access and receive at least one multicast service. Claims 1 and 26 also set forth the steps of determining whether the mobile unit implements the required hardware and/or software functionality and selecting the multicast service when the mobile unit implements the required hardware and/or software functionality. Claim 14 sets forth receiving subscription information and transmitting a multicast control message indicating at least one of hardware or software functionality required to be implemented in a mobile unit to enable the mobile unit to access and receive at least one multicast service. Claim 14 also sets forth receiving information indicative of selection of a multicast service in response to the multicast control message. The selection is

made based on the determination of whether the mobile unit implements the required hardware and/or software.

Xu describes a billing system that may be used for calculating costs associated with receiving multicast data during a multicast session. In particular, Xu describes a service discovery module 111 that provides an operator of the user terminal 110 with a list of available multicast sessions and relevant information for each session. The relevant session information may include a starting time and a cost associated with each multicast session. The Examiner alleges that the starting time for the multicast session and/or the cost associated with the multicast session are supportive requirements and therefore the Examiner alleges that Xu anticipates claims 1 and 14. Applicants respectfully disagree for at least the following reasons.

The pending claims set forth determining whether the mobile unit implements hardware and/or software functionality required to enable the mobile unit to access and receive particular multicast services. For example, to access and receive multicast services, such as MBMS, each subscriber should have a wireless unit (e.g., user equipment) supportive of such featured services. For example, the wireless unit of a subscriber should have a display to convey receive multimedia content to the user. Each subscriber should also have sufficient available channelization codes to access and receive multicast services. Consequently, each subscriber may have the appropriate privilege(s), yet lack other requirements to successfully access and receive a multicast service, such as MBMS. See Patent Application, page 3, ll. 12-20.

Applicants respectfully submit that the starting time and the cost of a multicast session described in Xu are not related to any hardware and/or software functionality of the mobile unit. Consequently, the starting time and the cost of the multicast session are not supportive

requirements for accessing and/or receiving multicast services, as set forth in independent claims 1, 14, and 26.

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not anticipated by Xu and request that the Examiner's rejections of claims 1-5, 14, 25 under 35 U.S.C. § 102(e) be withdrawn. Applicants further submit that new claims 35-37 are allowable over the prior art of record.

Applicants also respectfully submit that the pending claims are not obvious over Xu and Trossen, either alone or in combination. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). As discussed above, Xu fails to teach or suggest determining and/or receiving information indicative of one or more supportive requirements for accessing and/or receiving multicast services, as set forth in independent claims 1, 14, and 26. With particular regard to independent claim 26, Applicants respectfully submit that Xu fails to teach or suggest determining information indicative of one or more supportive requirements that indicate hardware and/or software functionality implemented in a mobile unit for providing at least one multicast service to a user of the mobile unit. Trossen describes multicast services that are provided at different data rates. However, Trossen is also completely silent with regard to determining hardware and/or software requirements for accessing and receiving at least one multicast service based on information included in the multicast control message, as set forth in independent claims 1, 14, and 26.

The prior art of record also fails to provide any suggestion or motivation for modifying and/or combining the cited references to arrive at the claimed invention. Xu describes a billing system that may be used for calculating costs associated with receiving multicast data during a

multicast session. Xu and Trossen simply assume that the mobile units that are receiving the multicast sessions have sufficient supportive requirements to provide the multicast sessions to users. Thus, neither of the cited references provide any suggestion or motivation to modify the prior art of record to include determining and/or receiving information indicative of one or more supportive requirements for accessing and/or receiving multicast services, as set forth in independent claims 1, 14, and 26.

For at least the aforementioned reasons, Applicant respectfully submits that the Examiner has failed to make a *prima facie* case that independent claims 1 and 14, and all claims depending therefrom, are obvious over Xu and Trossen, either alone or in combination. Applicant requests that the Examiner's rejections of claims 6-13, 15-24, and 32-34 under 35 U.S.C. § 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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